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10/630,355	07/30/2003	Carsten Momma	117163.00077	9258

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AKRON, OH 44311-1076

EXAMINER

PELLEGRINO, BRIAN E

ART UNIT	PAPER NUMBER
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3738

NOTIFICATION DATE	DELIVERY MODE
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11/03/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: CARSTEN MOMMA, ANDREAS BECKER,
ROBERT SCHMIEDL,
AND BERND HEUBLEIN

Application No. 10/630,355
Technology Center 3738

Mailed: October 31, 2008

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 28, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed June 14, 2007 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 1, 3-**13**, 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. (6254632); whereas Appellants have either not indicated the grounds of rejection of these claims or has improperly listed these claims as claims 1, 3-**12**, and 26-29 are unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,254,632 to Wu et al. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the file finds that claims 3 and 5 as provided in the appendix of the Appeal Brief are not consistent in the amendment filed on May 18, 2006. Appropriate correction required.

REPLY BRIEF
Improper Acknowledgment

On December 19, 2007, the Examiner mailed a communication acknowledging receipt of Appellant's Reply Brief, dated November 26, 2007. A review of this communication reveals that the Examiner did not provide proper acknowledgment. The comment made by the Examiner constitutes a Supplemental Examiner's Answer. In accordance with MPEP § 1207.05, all supplemental examiner's answers must be approved by a Technology Center (TC) Director or designee. The Communication mailed December 19, 2007, was not signed by the Technology Center Director or designee.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on June 14, 2007 defective;
- 2) notify Appellants to file a paper properly addressing the Grounds of rejection of all claims;
- 3) correction of the Claims Appendix;

4) either vacate the Supplemental Examiner's Answer mailed December 19, 2007, or revise the Supplemental Examiner's Answer by acquiring the Technology Center Director's approval on such;

5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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